



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, April 24, 2023 - 7:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of April 10, 2023.

[Draft PC Work Session Minutes 04-10-2023](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of April 10, 2023.

[Draft PC Reg Session Minutes 04-10-2023](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. PUBLIC HEARINGS

4.A File No. 2-CUP-23 (Continued): Application by South Beach Church for a Conditional Use Permit to Build a 19,895 Sq. Ft. Church and 50 Student Private School.

[Memorandum](#)

[Applicant's Site Plan, dated April 2023](#)

[Additional Public Testimony \(various dates\)](#)

[Bonnie Serkin Public Comments - 4-24-2023](#)

4.B File 3-CUP-23: Conditional Use Permit to Allow the Operation of a Historical Themed Photography Booth Studio in a W-2/"Water-Related" Zone.

[Staff Report](#)

[Attachment A - Application Form](#)

[Attachment B - Lincoln County Assessor Property Report](#)

[Attachment C - Land Sales Contract Listing GLTRI, LLC as Owner](#)

[Attachment D - Applicant's Narrative](#)

[Attachment E - Applicant's Site Plan](#)

[Attachment F - Photograph of the Building](#)

[Attachment G - Zoning Map and Aerial Image of the Property](#)

[Attachment H - Terrain and Utility Map of the Property](#)

[Attachment I - Final Order and Findings for File 4-CUP-21](#)

[Attachment J - Public Hearing Notice](#)

5. ACTION ITEMS

5.A File 3-CUP-23: Final Order and Findings of Fact for Conditional Use Permit to Allow the Operation of a Historical Themed Photography Booth Studio in a W-2/“Water-Related” Zone.

[Final Order](#)

[Findings of Fact](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
April 10, 2023
6:00 p.m.

Planning Commissioners Present: Bill Branigan (*by video*), Bob Berman, Braulio Escobar, Jim Hanselman, Gary East, Marjorie Blom, and John Updike.

PC Citizens Advisory Committee Members Present: Dustin Capri.

PC Citizens Advisory Committee Members Absent: Greg Sutton.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Vice Chair Berman called the Planning Commission work session to order at 6:00 p.m.

2. **Unfinished Business.**

A. **Update on Status of Yaquina Bay Estuary Plan Update.** Tokos reviewed the staff memorandum reporting that the State of Oregon, through its Department of Land Conservation and Development (DLCD), was partnering with Lincoln County, Newport, and Toledo to update the Yaquina Bay Estuary Management Plan. This plan provided land use and natural resource policy guidance for how development and related activities should occur within the bay and its estuarine areas. The existing plan was almost 40 years old and needed an update. DLCD would be the lead agency for the planning effort, with funding would be provided by the National Oceanic and Atmospheric Administration. The end product of this planning effort would be used to inform updates to the City's Comprehensive Plan and land use regulations that applied to in-water development.

Branigan joined the meeting at 6:05pm

Tokos reviewed the timeline with the Commission. He reported that the consideration of the impact of climate change on projects planned within the estuary was an issue that garnered a significant amount of discussion. How that was accomplished could significantly impact operations at the Port of Newport. The DLCD committed to making their staff available for a work session in the coming months to review their recommended package of amendments. Tokos would add this to the work program once they had the details.

Hanselman asked if there would be more meetings and if it would be publicized. Tokos reported there was a link on their website to sign up and it was open to the public. Berman asked if any of the Commissioners attended the open house at the Library. None were in attendance.

Updike noted the presentation talked about matrix versus zoning districts. He asked if they tried to gather committee comments on this. Tokos explained that they seemed to be heading away from the matrix. The matrix was a component of our zoning regulations. It was about whether or not you structure the zoning regulations with a matrix to identify what would be a permitted subject to some

sort of public hearing process, or what wasn't permitted at all within the estuary. Tokos noted there wasn't anything generally permitted outright when doing development in an estuary. He also reported that there had been some concerns expressed that the matrix was too confusing for people.

B. Review Results from Housing Production Online Survey and Recommended Housing Production Strategies. Tokos reviewed the PowerPoint presentation that ECONorthwest for the Newport Housing Capacity Analysis shared. The city was working on two pieces for housing that included the Housing Capacity Analysis and the Housing Production Strategy. The Advisory Committee had their final meeting on March 30th. Tokos reported they had received over 450 responses to the online survey. They were getting close to wrapping up the process and would be doing an in person open house with the public on April 25th. Tokos noted they would be doing outreach for the event by post cards and press releases. The open house would be an opportunity to let people know how their feedback from the online open house has been incorporated into the plan, and recognize that there were people who were just finding out about the report for the first time. The Commission would make a recommendation to the City Council and look to get a potential adoption in May.

Tokos went over the meeting dates and topics the Advisory Committee covered, the different groups and stakeholders they engaged, the virtual open house that occurred on March 1st through 10th, and the different types of housing that survey respondents lived in. Berman pointed out there was an overwhelming preponderance of single family detached that the respondents lived in and asked if this implied that the outreach wasn't done to the most optimized manner to reach a broad selection of the community. Tokos reported that there was a larger percentage of people who lived in single family detached that responded. The city did a carrier route postcard distribution that went out to everyone in Newport, including apartment owners, and this was how the responses played out. Capri noted that 67 percent of respondents owned their house. Hanselman asked if they knew how many single family houses there were in Newport. Tokos reported it was close to 4,000. There were another 1,000 multifamily dwellings, and a remaining 7,800 different housing types in Newport. Tokos thought this was a good representative sample. He noted that most people who rented were cost burdened who tended to work multiple jobs and didn't have much time to respond to surveys. Tokos pointed out that there had been quite a few renters that responded though. Escobar asked if all residents in Newport received the notice. Tokos reported that anyone who got mail in Newport on the postal routes got a post card. They also worked with the Recreation Center, the Library, and the School District to get the word out. Capri reported the survey was easy to go through and fill out.

Tokos reviewed the percent of respondents that were very concerned about different housing issues in Newport. The issues included things like housing sizes, accessibility, and discrimination in housing. Berman asked if the city had records of actual discrimination. Tokos explained that this was a representation of how people were feeling when they tried to obtain rental housing or buy a home. Capri asked what the difference was between condition and quality of housing. Tokos explained that condition was the maintenance condition of housing, and quality was when the housing had what they wanted and met their needs.

Tokos reviewed the concerns about different development types. Escobar asked if the responses were broken down by who owned or rented. Tokos reported it was only by what their concerns were.

Tokos reviewed the other housing types that respondents supported. Berman asked what transitional housing was. Escobar explained it was housing for people transitioning from prison to housing. Blom noted it was also for people who were going from homelessness to finding a home. Tokos reported that

some people were concerned about RVs and felt this survey question scored low because there were a few RV lots in town that weren't maintained well.

Tokos reviewed the percent of respondents that ranked different housing solutions as the highest priority. Berman asked who a tenant would report a complaint to if they had a problem with their electrical. Tokos explained the landlord usually fixed it. Berman asked what happened if the landlord didn't fix it. Tokos explained this typically didn't come to the city. We could step in when there was a serious compromise to the structure such as wiring or structural integrity.

Berman questioned if they were pursuing an agreement with the County that made it easier for the city to bring land into the city limits was a state dictated procedure. Tokos explained there wasn't a lot of residential land that was undeveloped. The location where there was residential was already developed and the city was unlikely to see much more added for this.

Tokos reviewed the discussions with stakeholders about actions on the Housing Production Strategy and the high level interest for getting an emergency shelter going. Updike gave an example of how San Francisco converted a school gymnasium into a housing opportunity for the houseless. The project was controversial and difficult to manage, but in the end it work out really well for them. The site was co-managed with the school district and a nonprofit service. Updike also noted that this was an active school site during the day that was converted overnight for housing. He thought this was worth noting because of the number of houseless students in Newport. Berman asked if the County was working through similar ideas to a work toward houseless solutions. Tokos explained the County was very concerned about this. Much of what they would have under their jurisdiction was rural, and they had limited services and capacity for additional housing. However, they provided all of the social safety nets and social services that went hand in hand with providing for those that were houseless. Tokos reported the County was going through a five year plan to get a strategic plan in place, which Newport was a part of. This was a multi-jurisdictional effort the County was taking the lead on. It was one of eight pilots under the statewide House Bill 4123 that gave \$1 million for the purpose of helping rural areas develop more capacity to provide services to those that were houseless so that they were in a position then to tap into state funding. This was an ongoing plan and their primary focus right now.

Tokos continued his review of the discussions with stakeholders. He discussed how the OSU student housing would now be managed under the Hatfield Marine Science Center housing development. Hanselman asked if OSU saw the slowing of growth having anything to do with the housing issue that students would face coming to Newport. Tokos reported they hadn't mention this but thought it was more to do about how their programs were structured. They would be moving forward with the development relatively soon.

Tokos reviewed the existing strategies in Newport, the summary of actions, the implementation timeline, the monitoring implementation of the actions, and the potential partners.

Tokos reported that the open house would take place on April 25th at 6 p.m. where they would walk through the reasons for the study, explain what the key findings were, share how the public's feedback was incorporated in the final results, and inform folks who hadn't engaged at that point so they understood what was going on. This would be done as a formal presentation. Tokos explained that there would be some instant polling done through the open house.

2. New Business.

- A. **Discuss Housing Related Bills in the 2023 Oregon Legislative Session.** Tokos reported that he shared comments from the City Council on House Bill 3414 with the Commission. The legislative session was oriented toward housing and homelessness statewide. Tokos explained that when it came to housing, they would see that the general tenor of the focus of the legislation had been on processes largely at the city level that were viewed as an impediment to getting housing on the ground, and for public involvement at the local level. Escobar thought the letter from the City Manager addressed some of these issues. Tokos explained that the bill would probably be adopted in some form. The city was working with the other jurisdictions and the League of Oregon Cities to improve it to the best way they could. The principal issue here was that it wasn't a rural fight, but a metro one. Updike asked if the lobbyists attempted to carve out rural communities. Tokos noted this had been raised. The League of Oregon Cities represented all cities and it was hard for them to carve out time for specific groups.
- B. **Planning Commission Work Program Update.** Tokos noted the work program didn't include the hearing that would be held on April 24th for a conditional use permit to allow a photography studio on the Bayfront. This was something that had already been approved at a different site and they were now moving to a new location.
3. **Adjourn.** The meeting adjourned at 6:56 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
April 10, 2023

Planning Commissioners Present: Bill Branigan (*by video*), Bob Berman, Jim Hanselman, Gary East, Braulio Escobar, John Updike, and Marjorie Blom.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Vice Chair Berman called the meeting to order in the City Hall Council Chambers at 7:00 p.m. On roll call, Commissioners Branigan, Berman, Hanselman, East, Escobar, Updike, and Blom were present.

2. **Approval of Minutes.**

A. **Approval of the Planning Commission Regular Session Meeting Minutes of March 27, 2023.**

MOTION was made by Commissioner Blom, seconded by Commissioner Updike to approve the Planning Commission Regular Session meeting minutes of March 27, 2023 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File No. 1-CUP-23 / 1-ADJ-23 Final Order and Findings of Fact: Conditional Use Permit and Adjustment to Build a Three Story 47 Room Hotel and 2,626 SF of Ground Floor Commercial on Bay Blvd.**

Tokos reviewed the final order and findings for File No. 1-CUP-23/1ADJ-23. He noted there was a minor change to the final paragraph in the findings of fact to add language that said by denying the conditional use, the adjustment in turn was denied because it relied upon the parking arrangement to tie the pieces together.

MOTION was made by Commissioner Blom, seconded by Commissioner Updike to approve the Final Order and Findings of Facts for File No. 1-CUP-23/1-ADJ-23 with the additional paragraph stated by the Community Development Director. Escobar, Berman, East, Blom and Updike were in approval. Branigan, and Hanselman were in opposition. The motion carried in a voice vote.

B. **File No. 1-NCU-23 Final Order and Findings of Fact: Nonconforming Use Permit to Build a 9-ft Diameter 40-ft Tall Enclosed Flare at the NW Natural LNG Plant.**

MOTION was made by Commissioner Hanselman, seconded by Commissioner Escobar to approve the Final Order and Findings of Facts for File No. 1-NCU-23 with the conditions. The motion carried unanimously in a voice vote.

C. **File No. 1-SUB-23 / 1-VAR-23 / 2-GP-23 Final Order and Findings of Fact: Fisherman's Wharf Tentative 11 Lot Subdivision Plat, Variance, and Geologic Permit.**

MOTION was made by Commissioner Hanselman, seconded by Commissioner Branigan to approve the Final Order and Findings of Facts for File No. 1-SUB-23 / 1-VAR-23 / 2-GP-23 with the conditions. The motion carried unanimously in a voice vote.

4. Public Comment. None were heard.

5. Public Hearings. At 7:07 p.m. Vice Chair Berman opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioners Hanselman, and Berman reported site visits. Berman called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File No. 2-CUP-23: Application by South Beach Church for a Conditional Use Permit to Build a 19,895 Sq. Ft. Church and 50 Student Private School.

Tokos reviewed the staff report and acknowledged additional public comments that were received. He reported that Bonnie Serkin submitted testimony and requested a continuance of the hearing. Tokos noted the applicant submitted revised imaging for the sign plan. They also submitted updated renderings that were shared with the Commission before the hearing. Tokos noted that written comments were submitted by Al and Jill O' Bright at the hearing.

Tokos reviewed the staff report and criteria for approval of the conditional use permit. Berman asked if Public Works had a chance to review the application and asked if they submitted a letter. Tokos noted they reviewed it and their principal point of focus had to do with the access point and making sure that they were comfortable with how the driveway approach was going to be working. They did not submit a letter. Tokos reviewed the revised site plan. He explained the proposed access wouldn't be over a 10 percent grade and the Fire Department was okay with this. He reviewed the new overflow parking area the applicant proposed that would be built with a reinforced turf surface. Tokos acknowledged the revised sign plans and explained the applicant would have to follow up to make sure the design met the sign code. He noted that there was a threshold for when a traffic analysis would be required. The threshold for an analysis was when 500 average daily vehicle trips or 50 pm peak hour trips were being generated. Tokos explained how the trips were counted based on the Institute of Traffic Engineers trip generator. Based on this manual, the application wasn't required to do a traffic study.

Tokos pointed out the applicant's plans showed a proposed conservation and trail easement, a trail on the north end, and a trail connection. The City's Park System Master Plan called for a trail connection from Chestnut Drive to the north that extended up towards the Wilder subdivision. The applicants were showing how this could be done with potential connections. The church wanted to be a good partner with the community and see that some of this happened. There would be specific standards for the trails that would apply. Berman asked if the easement was a part of the conditions. Tokos explained it was something the city would acquire down the road from the church. They weren't obligated to grant the easement, the city would have to acquire it. Hanselman asked if the easement would be in perpetuity. Tokos confirmed that was correct. Escobar asked if the area north of this property was owned by the city. Tokos confirmed it was owned by the city and was in a wetland. Escobar asked if the property located next to it which was owned by RJ LLC property would be for housing. Tokos explained it was residentially zoned and could be used for housing.

Tokos noted that as far as the concerns about noise, the church engaged noise consultant, Team Wilson Media. They were looking to deal with some of the acoustic issues so there wouldn't be a lot of sound outside of the building. Tokos pointed out that the building the church was currently in wasn't built for church use and had some issues in respect to noise. Escobar asked if the recommendation in Attachment F was drafted by the media consultants and if the consultants were affiliated with the church. Tokos thought they were independent from the church. There would be a housing complex coming in next to it. Tokos thought that with the conditions listed, particularly with respect to addressing their parking needs onsite and following the acoustic consultants recommendations, there wouldn't be any adverse impacts to neighboring properties. He thought the application met the approval criteria.

Hanselman noted under 2.A they submitted a new parking plan that put them up to 250 parking spaces. He didn't think this was designated as required off-street parking and asked if they needed to have one parking space for every four people. The applicant had stated they would have up to 1,000 people which meant they would need 250 parking spaces. Hanselman thought this meant they were now required to have the parking and asked if it needed to be paved. Tokos explained the parking code required one space for every four seats. They met the requirement for paved parking spaces. The Building occupancy under the Fire Code was different and would allow for more people in the building, which would happen only occasionally. Tokos noted that what the city was asking was that they provide overflow parking for this because the church didn't need all the parking on a day to day basis. Berman asked about ADA parking spaces and if what they were providing was sufficient. Tokos confirmed the numbers were sufficient and were based on the Oregon Building Code. Hanselman expressed concerns about what the overflow parking area would be like in heavily rained days.

Applicants: Dustin Capri with Capri Architecture, Tim Gross with Civil West Engineering, and Luke Frechette, with South Beach Church (*by video*) addressed the Commission. Frechette stated he wasn't able to attend in person and expressed how excited the church was for the project. He noted the church shared the same concerns about traffic, parking, light pollution, and sound mitigation. They intended to steward the property well and they were onboard to do anything that needed to be done to make the project happen.

Capri reported he had worked with South Beach Church to find this property since 2014. This property had 12 acres and it was quite large. This made it possible for them to add 91 overflow parking spaces to make sure they were addressing potential concerns with parking. They were looking to have 588 seats in the church. The sanctuary was sized for a full size basketball court and the chairs would be moveable for the school to use. Capri noted that there have been concerns on the acoustics. He explained that acoustics drove the design from the beginning because of the past complaints they had about noise. They designed this building to try to include the sanctuary in the center of the space to help isolate the noise. Capri reported that Team Wilson Media was not associated with the church and was hired to help with the process. They had addressed the noise with a lot of treatments. Capri thought having this be a part of the conditions of approval made sense.

Capri explained that in December of 2022 they submitted an application to annex this property into the city and it received unanimous approval from the Planning Commission to go forward. During the City Council meeting they heard complaints about noise and cutting down trees. Capri explained that they weren't going to cut down the trees. The City Council gave their approval for the annexation at that time. Capri reported they had worked through the jurisdiction process since December and were excited to get this moving forward. He noted the conditional use permit required a notification to property owners within 300 feet. They used the same notification radius

they used for the annexation process to make sure the same people who were a part of this process. Capri noted that the church cared about the Wilder development. He was concerned about the statements about the acoustics. The description they had in their report was very accurate to what was surrounding this piece of property currently. Capri reported that the closest home was over 1,000 feet from the entry of the new entry. This was about five blocks away and a significant distance from the property.

Gross talked about how the site was lower in elevation than the Wilder development. It was 80 to 100 feet lower than Wilder and would help with the sound. Gross reported that they had just thought of doing the overflow parking area that day. The giant overflow parking lot would have reinforced turf to support heavy vehicles, including fire trucks. It will be constructed over a filtration bed and drain to the side so the surface would remain dry all the time and vehicles could drive over it at any time. Gross reported the parking would only be used for overflow and blocked off during normal church operations which was primarily during the weekends. The school would also have drop off times set up so it wouldn't affect traffic. The utilities were already stubbed in off of Chestnut Street. None of the water off the site would go down to 40th Street because it was already draining to the north and they didn't expect that to change. The trail would likely have a storm swale that ran parallel to capture the bulk of the driveway water coming off of it. Gross noted there was also a good amount of distance between the parking lot and the wetlands to the east.

Capri explained they had added 91 parking spaces to the 140 they showed previously. This gave them 238 spaces. Capri reported that the church counted the number of cars that parked during Easter Sunday service, which was an average 140 cars. Capri thought this showed that the adequacy of parking had been demonstrated. The entry to the new church was 250 feet from Harborton Drive which meant that people wouldn't be walking over Harborton to get to the property. Capri noted that they didn't see congestion on Highway 101 during their Sunday services at their current location.

Blom asked if the swales would be a part of the landscaping and allow for water draining onsite. Gross confirmed that was correct.

Berman asked if this development would reduce the trip budget for future development. Tokos explained it would reduce the budget but there were some accommodations already for certain properties such as the industrial property, the Wilder development, and the Community College. There was an ample number of PM peak hours. The trip budget applied to specific geographic area, and the system could handle vehicle trips from these areas within the trip budget. Berman asked if the housing across the street from this property had already been counted. Tokos reported that this property was in a different trip budget zone than the church. Berman asked if they would be short circuiting any future options for other development. Tokos said they wouldn't. Eventually they would have to make updates to the transportation system which would mean they would be running up to the trip cap and would warrant changes to the system. This wasn't an issue currently.

Escobar asked if Team Wilson Media was independent and not church members. Capri confirmed they weren't. Escobar asked if it would be difficult for the church to incorporate the recommendations into the final design. Capri said it wouldn't be difficult but it would be costly for them. Escobar noted that there had been complaints about decibel levels and bass sounds at the existing location that disturbed the neighbors. He asked if Team Wilson Media would try to mitigate this. Capri said they would. Escobar noted in the drawings it showed areas where future offices would be built. He asked if the future offices would have walls already built. Capri explained that the exterior walls would be built, along with a demising wall which would be a

sound wall separating the offices from the sanctuary space. The area would be one big open long space where they could put up additional demising walls and hallways for offices. Escobar asked if the cost for the recommendations from Team Wilson Media would be a deal breaker for the church. Capri said it wouldn't. Escobar asked if the church was committed to incorporate Team Wilson Media's recommendations into the final design. Capri confirmed they were committed to them as long as they were a part of the conditions. Escobar pointed out the stage faced the east and asked if the sound would be projected toward the east or if it would be from all sides. Capri reported that ideally it wouldn't leak at all or would be very minimal from all sides.

Hanselman asked if the Team Wilson Media acoustic rate would be the best sound absorbing materials. Capri noted the combination of the rock wall and soundboard, along with the insulation, had the best impact. Hanselman thought the south wall would be the most likely wall to cause issues with the neighbors. He wondered what they expected the specific decibel reduction to be from the exterior. Hanselman reminded that although the evergreen trees created a buffer, you could still hear the sea lions from the community college. Sound traveled and the trees didn't block as much as someone might think. Hanselman suggested the church ask their congregation to not park on the street and use the parking spaces that would be provided.

Branigan asked if they would have dark sky lighting. Capri confirmed they would. Branigan asked if the large parking lot would have lights on all night or if there would be a break in occurrence. Gross explained that it would be set up with lighting sensors. There would be security lighting on at all times but the parking lot light would be on for special events. Branigan asked if the overflow parking material would be designed so it had gravel sand with turf on top, and a drain pipe. Gross explained it wouldn't be different from designing an agriculture field. It would have a granular level underneath the planting soil, and have a designed surface with pavers that could be planted. Branigan asked if there would be a grade on the overflow or pipes underneath. Gross thought they would have drain tiles. Branigan asked if the structure of the building would be metal, cedar shake, stucco, or cinderblock. Capri reported it would be a steel frame structure with a standing seam metal roof.

Escobar asked if there was a berm in the topography to the north of the building. Capri explained that it was actually a depression. Escobar asked if it was the same on the east. Gross noted that the property went uphill from the west to the east.

Berman asked if they had made adequate measures for security for the school and church. Frechette reported they had a safety team that attended church services and the school.

Hanselman asked what the upper level grades would be at the school. Frechette reported it was sixth to ninth grades. Their goal was to go up to twelfth grade at some point.

Paul Schams addressed the Commission. He was the president of the board for the church. Schams noted that he had lived in Newport since he was one. Through the last 20 years the church had done community outreach and embraced the community to make it better. They intended to continue to serve the community. Schams requested that the Commission not continue the hearing to another date. He thought that Serkin's request for a continuance based on the fact that the people weren't informed wasn't true. The notification was sent out to the community and one of the homes was 1,000 feet away. Berman asked if the Commission was required to do a continuation. Tokos reported that was correct. Schams thought this was an opportunity for a discussion to work through the issues. Escobar asked if the church did their own outreach to Wilder before the hearing. Capri noted Bonnie Serkin was included in the required notifications. Hanselman asked if the church did their own noticing the neighbors. Carpi explained anyone who owned within the 300 feet noticing

area received the notice. Hanselman encouraged the church to sit down with the Wilder community to discuss this. Capri pointed out that the purpose of the hearing was to hear from the neighbors and then be able to respond to their concerns.

Frechette thought that the issues had been addressed and wanted to correct anything that had been a concern with at their current location. He stressed that their current location was on a small parcel and they had been successful with traffic and complaints. The new location was a win for everyone because it got them out of their current building, gave them a place to breath, and addressed some of the concerns.

Proponents: Austin Mentor addressed the Commission. He wanted to see the request approved because the church helped him with sobriety.

Edward Townsend addressed the Commission. He noted the church had a tract record of positively impacting the lives of their members. The new location was the perfect place to continue serving Newport. Townsend thought the school was a high value to the community. They were committed to being environmentally sustainable and they planned to host community events which would have a positive effect on the economy. Townsend thought the acoustical concerns were being taken seriously. They were investing in high quality soundproofing materials and would do regular testing to ensure compliance.

Katie Townsend addressed the Commission. Her children attended the South Beach Christian School and she was the principal. Townsend reported that they made neighborly accommodations at the current school to delay the pickup time and drop off times to help with traffic. They wanted to be great neighbors and hadn't received any complaints at their currently property.

Domingo Gonzalez addressed the Commission. He thought the church wanted to unify and create a benefit for the community. Gonzalez reported that they built a hay wall to try to mitigate the sound concerns at their current location. This showed the church wanted to be a better neighbor to the community.

Amy Gonzalez addressed the Commission. She stated she had been a part of the church for over 20 years. Whenever there were concerns the church always looked to fix them. Gonzalez thought that any concerns from the neighbors would be addressed and taken seriously.

Adam Durkin addressed the Commission and reported he was the pastor at South Beach Church. He was in charge of the mission and recovery programs. During the Otis fires of 2020 they were asked to host families that lost their homes, but couldn't because of the zoning of the property. Durkin noted that they wanted to partner with Wilder and the community college.

Neal Rai addressed the Commission. He was impressed with the good neighbor approach the church took to hire the right people to do the project, even if they weren't involved with the church.

Ted Wilson addressed the Commission. He asked the Commission to give their approval for the request. Wilson was a physician who saw how the church helped people who had addictions. He asked the Commission to take this into account.

Mark Watkins addressed the Commission. He thought the current sound issue was warranted. The church became involved with the Police Chief because of the noise concerns. The police did checks occasionally and the church had been completely proactive by building the hay wall to address the concerns. Watkins reported that there was never a violation of the sound codes. What mattered

was that the neighbors complained and the church always wanted to address it. Watkins reported that everything in the project would be done to code and he was in favor of the project.

Opponents: Dan McLaughlin addressed the Commission. He reported that he was the closest owner to the proposed church. McLaughlin noted that there was only one two lane road up the hills. New dorms would be built across the street, the Wilder community continued to be built, and the community college wanted to put in another building. He asked that the trip numbers be recalculated assuming all these developments went through to get a fuller picture of what would happen. McLaughlin thought the noise proposals sounded good. He requested that a sound requirement be added on the conditional use permit that prohibited the outdoor amplification of sound. He recommended the city have the developers pay for another access road there.

Scotty Fairchild addressed the Commission. He stated that he was a retired landscape ecologist and botanist who was there to represent nature. Fairchild noted the wetlands at this location were one of the most unique bodies of waters in Lincoln Couth. It went from freshwater springs, transitioned to brackish water, then drained into Yaquina Bay which was salt water. There was an incredible species diversion in the area. Some species were rare and endangered. Fairchild thought a lot of care had been put into the design. He was concerned about the site's drainage, sound, and light mitigation. Fairchild reported that wildlife wouldn't deal with sound and light like people did. He was concerned about the drainage into the wetlands. Fairchild thought the impacts in this case could actually change the diversification of the ecological community in such a way that it would impact it and almost destroy it. Hanselman asked if any environmental impact studies were required. Fairchild didn't know if it needed to be done in this area, but he wanted the church to be aware of this. Tokos confirmed that an environmental impact assessment wasn't required. This would go through the Department of State Lands because it was in the wetland areas. Tokos noted that this project didn't directly impact the wetland physically. He also noted that this project didn't generate enough traffic to warrant construction of an alternative route. The city had an easement from 50th Street that provided secondary access to the entire neighborhood. The system development charges would be used for further road improvements and the church would be paying into this. There were also urban renewal funds available to pay for a stop light at 40th Street. In order to get this signal they needed more vehicle trips on 40th Street to warrant the state approval to implement one. Tokos noted that the church didn't need to do a traffic impact analysis as part of their development.

Rebuttal: Capri reported he talked to Bonnie Serkin and asked her to share the entire staff report with the Wilder neighborhood. He didn't think anybody from the Wilder neighborhood attended the hearing. There were also wasn't anybody in attendance that asked for a hearing continuation. The notice was mailed to Bonnie Serkin 30 days prior to the hearing and the report and plans had been available to them since then. Capri noted the discussion he had with Serkin was that nobody was able to review or comment on the documents. He noted that they received a couple of comments and they responded to them over the previous weekend. The applicant and church members were in attendance at the hearing to answer questions, but nobody from Wilder showed up. Capri was disappointed that they had to continue the hearing without anyone being in attendance. Escobar noted that democracy compelled them to grant a continuation.

Udike asked where the trash enclosure would be located. Capri reported it was on the northwest side against the building and parking lot. Udike asked if there would be night play on the field. Gross reported they didn't know this yet. He didn't think the field would have lights. Frechette didn't see them doing things in the evenings and it wasn't a part of their plans.

Gross noted 40th and Harborton streets had been identified in the Transportation System Plan (TSP). The TSP looked at the overall build out of the transportation systems in Newport and was recently updated. Gross noted that traffic might have to get worse before they could get transportation improvements in the area. He reported that the church wasn't likely to do a phase one environment assessment. Their responsibility as a developer was to be aware of the requirements and restrictions to protect the environment. Gross explained they would identify what those would be and make sure they complied with the law. He also noted that the lighting would be dark sky and would go through a lighting analysis.

Capri asked what the process was if the request for a continuance was granted, and if they applicant had to do another formal presentation. Tokos explained there would be an additional public hearing and they wouldn't have to go through a formal presentation a second time. They would need to make themselves available for responses.

MOTION was made by Commissioner Escobar, seconded by Commissioner Blom to continue the hearing for File No. 2-CUP-23 to the April 24, 2023 meeting. The motion carried unanimously in a voice vote.

6. **New Business.** None were heard.
7. **Unfinished Business.** None were heard.
8. **Director Comments.** None were heard.
9. **Adjournment.** Having no further business, the meeting adjourned at 9:13 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

Memorandum

To: Planning Commission

From: Derrick I. Tokos, AICP, Community Development Director

Date: April 21, 2023

Re: Continued Hearing for South Beach Church Conditional Use Permit (File #2-CUP-23)

Attached is a copy of the applicant's site plan presented at the April 10, 2023 public hearing. It includes their current concept for the overflow parking area, which would be a reinforced turf. The South Beach Church has also indicated that they will be holding a neighborhood meeting on Friday, April 21st at 6:00 pm to present the plans and address concerns. The meeting will be held at the Church's current location. Commission members might want to ask the applicant about who attended the meeting, the issues covered, and if any of the issues have led them to amend aspects of the application.

Additional public testimony received since the April 10th public hearing is enclosed. The issues raised are in line with testimony the Commission received at that meeting.

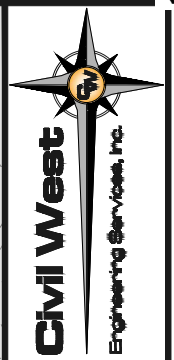
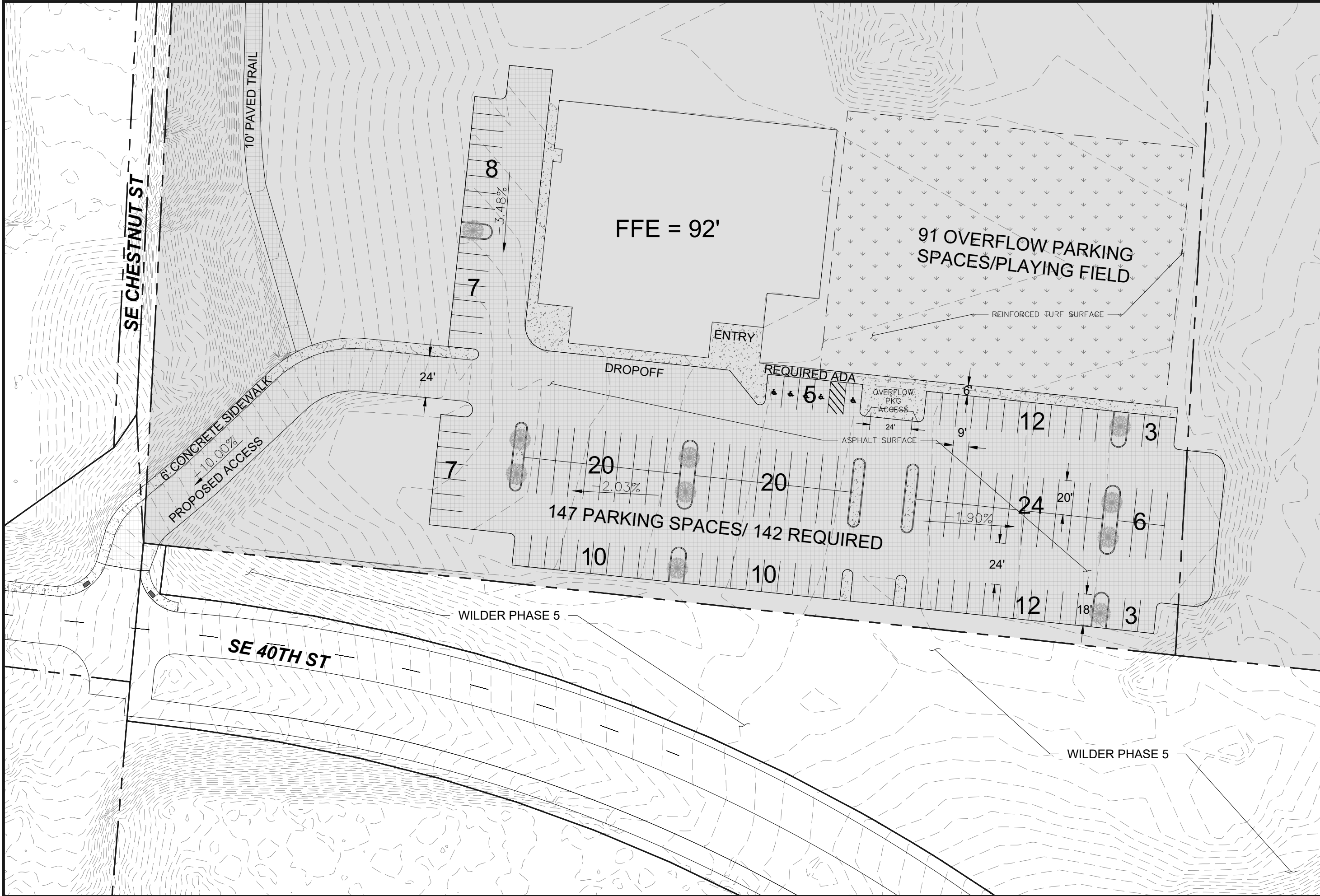
Staff's recommendation is that the conditional use application can satisfy the approval criteria with the conditions of approval outlined in the staff report. Those conditions are attached to this memo. If the Commission concurs, then a motion would be needed to approve the application, and that the approval is subject to the listed conditions. Alternatively, if the Commission does not believe that the approval standards have been met, it should cite its reasoning as it relates to the approval criteria, and move to deny the application. In either case, staff would bring forward a final order and findings reflecting the Commission's action for its review and approval at the May 8, 2023 meeting.

Attachments

Applicant's Site Plan, dated April 2023

Additional Public Testimony (various dates)

DATE: 4/10/23 FILE: C:\CW_Projects\2204-Misc Private Engineering Work\2204-194-SBC Site Development\03 Preliminary Design\Drawings\DWG\SBC SITE WORKING field alternative 4-10-23.dwg



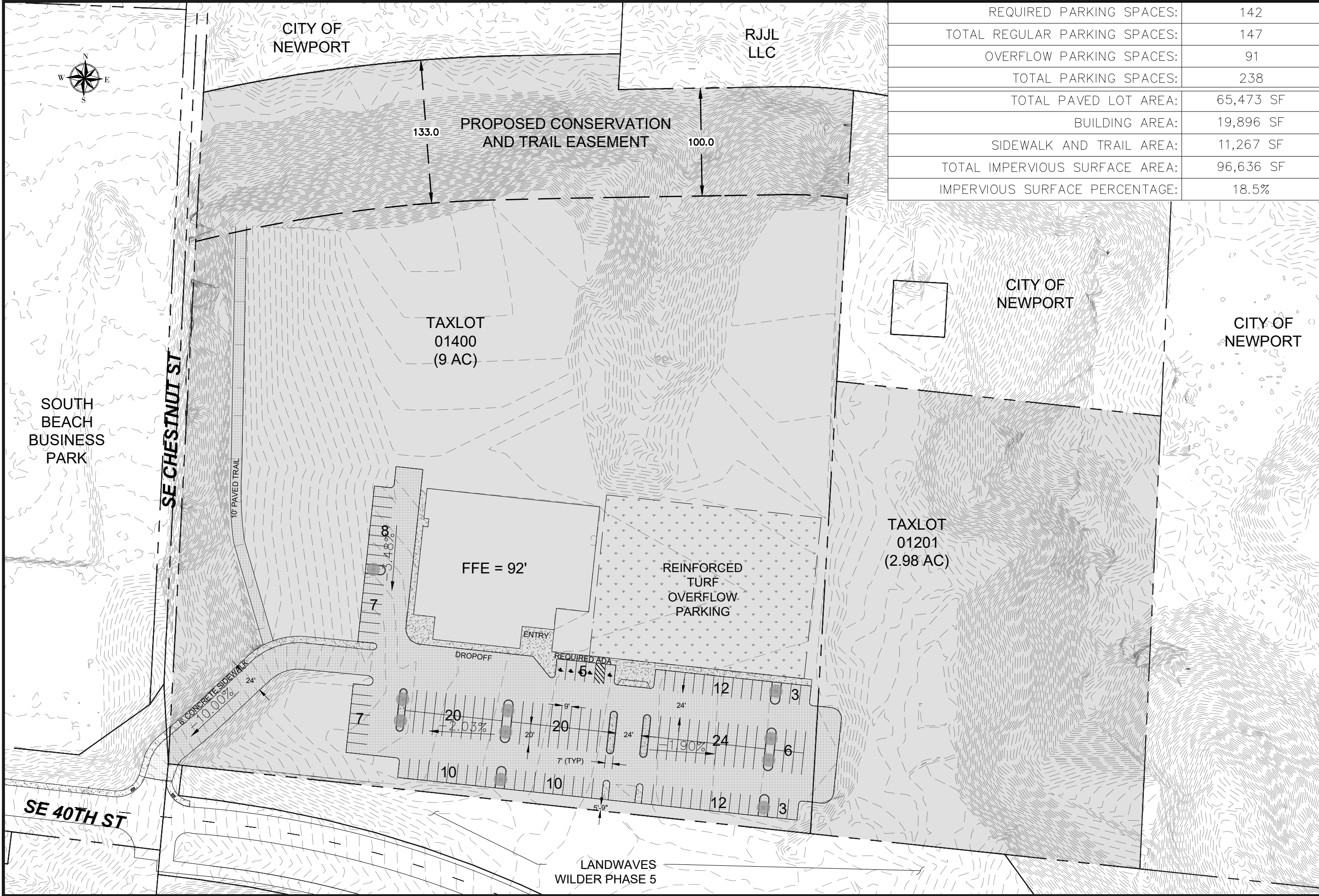
SOUTH BEACH CHURCH
LINCOLN COUNTY, OREGON

PRELIMINARY GRADING
PROPOSED PARKING LAYOUT

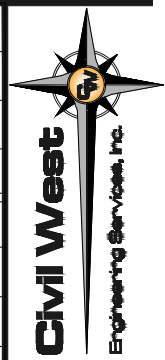
1" = 10' NTS
DRAWN BY: TEG
DATE: APRIL 2023

FIGURE
EX1-REV

DATE: 4/10/23 FILE: C:\CW_Projects\2204-Misc Private Engineering Work\2204-194-SBC Site Development\03 Preliminary Design\Drawings\DWG\SBC SITE WORKING field alternative 4-10-23.dwg



REQUIRED PARKING SPACES:	142
TOTAL REGULAR PARKING SPACES:	147
OVERFLOW PARKING SPACES:	91
TOTAL PARKING SPACES:	238
TOTAL PAVED LOT AREA:	65,473 SF
BUILDING AREA:	19,896 SF
SIDEWALK AND TRAIL AREA:	11,267 SF
TOTAL IMPERVIOUS SURFACE AREA:	96,636 SF
IMPERVIOUS SURFACE PERCENTAGE:	18.5%



SOUTH BEACH CHURCH
LINCOLN COUNTY, OREGON

PRELIMINARY GRADING
PROPOSED SITE PLAN

1" = 80'
DRAWN BY: TEG
DATE: APRIL 2023

FIGURE
EX2-REV

Sherri Marineau

From: Derrick Tokos
Sent: Wednesday, April 19, 2023 1:52 PM
To: Sherri Marineau
Subject: FW: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Please add this to the upcoming meeting packet.

From: dustin capriarchitecture.com <dustin@capriarchitecture.com>
Sent: Wednesday, April 19, 2023 12:36 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Cc: amanda capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette <lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>; Tim Gross <tgross@civilwest.net>
Subject: Re: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Hi Derrick - We wanted to let you and the Planning Commission know that South Beach Church will be hosting the Wilder Community to an informative meeting this Friday at 6:00pm to present the plans and address any concerns they may have.

We look forward to continuing the Public Hearing with the Planning Commission on Monday, April 24th.

Dustin

--

Dustin J. Capri, AIA, NCARB, LEED AP ND
 Architect

Capri Architecture, LLC
 p. 541.961.0503
 w. www.capriarchitecture.com
 a. 747 SW 13th Street, Newport, OR 97365

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On Apr 14, 2023, at 7:59 AM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Dustin... we haven't received any further comments.

Derrick

From: dustin capriarchitecture.com <dustin@capriarchitecture.com>
Sent: Friday, April 14, 2023 7:28 AM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Cc: amanda capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette <lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>; Tim Gross <tgross@civilwest.net>

Subject: Re: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Derrick,

We wanted to reach out. We haven't heard any additional feedback from Wilder or any surrounding neighbors. Has the City heard any additional testimony?

Thanks!

Dustin

--

Dustin J. Capri, AIA, NCARB, LEED AP ND
Architect

Capri Architecture, LLC
p. 541.961.0503
w. www.capriarchitecture.com
a. 747 SW 13th Street, Newport, OR 97365

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On Apr 10, 2023, at 5:45 PM, Tim Gross <tgross@civilwest.net> wrote:

And here's another copy without the ridiculous spelling error.

Timothy Gross, PE

Civil Licensed: OR
Senior Project Manager
North Coast Region - Newport
p 541.982.4240 | c 541.961.7489

<image001.jpg>

Civil West Engineering Services, Inc.
609 SW Hurbert St., Newport, OR 97365
www.civilwest.com

From: Tim Gross

Sent: Monday, April 10, 2023 5:32 PM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Cc: dustin capriarchitecture.com <dustin@capriarchitecture.com>; amanda capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette <lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>

Subject: RE: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Derrick,

We have been discussing constructing the overflow parking using a plantable pavement so it will function primarily as a sports field but can be used as overflow parking when there are events that needs more spaces, like Christmas and Easter services. This is a completely permeable surface similar to what we use for emergency fire truck access. I think it is likely we will go this direction. I have attached some concept drawings and a link to the type of product we will likely use. <https://docplayer.net/23885880-Drivable-grass-permeable-flexible-and-plantable-concrete-pavement-system.html>

Timothy Gross, PE

Civil Licensed: OR

Senior Project Manager

North Coast Region - Newport

p 541.982.4240 | c 541.961.7489

Civil West Engineering Services, Inc.

609 SW Hurbert St., Newport, OR 97365

www.civilwest.com

From: Tim Gross

Sent: Monday, April 10, 2023 1:15 PM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Cc: dustin capriarchitecture.com <dustin@capriarchitecture.com>; amanda

capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette

<lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>

Subject: RE: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Thanks Derrick,

I have attached some drawings that are a little more detailed than was included in the CUP submittal. We had discussed adding some overflow parking as a gravel lot to the east of the church and this depicts that area and the total amount of parking that may be available. This is likely also the location of the laydown area when the building is being constructed.

Timothy Gross, PE

Civil Licensed: OR

Senior Project Manager

North Coast Region - Newport

p 541.982.4240 | c 541.961.7489

Civil West Engineering Services, Inc.

609 SW Hurbert St., Newport, OR 97365

www.civilwest.com

From: Derrick Tokos <D.Tokos@NewportOregon.gov>

Sent: Monday, April 10, 2023 9:58 AM

To: Tim Gross <tgross@civilwest.net>

Cc: dustin capriarchitecture.com <dustin@capriarchitecture.com>; amanda

capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette

<lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>

Subject: RE: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Hi Tim.

The short answer is yes, because to do otherwise would likely result in a procedural error that if challenged would complicate and delay the approval process. A public hearing doesn't have to be open before someone can request a continuance. The statute simply requires that such a request be made prior to the conclusion of the initial evidentiary hearing. Bonnie confirmed that her request for continuance is for the purpose of presenting additional evidence, arguments or testimony regarding the application, which is all she is required to do.

While the Commission has the option of leaving the record open for additional written evidence, arguments, or testimony, I would typically only recommend that approach if they were dealing with a targeted set of unresolved issues, or the issues are highly technical in nature (like a TIA). Otherwise, it can string out the process because the Commission must provide at least 7 days for anybody to submit evidence, arguments, or testimony. This is followed by a 7 day rebuttal period, and 7-days for applicant's final argument (unless waived). The information would be compiled by staff and the Commission would render its decision, 4-weeks from the initial hearing date. That decision is likely to be verbal if there is a bunch of written material they have to sort through, which tacks on 2 more weeks before they act on a final order and findings.

Simply continuing the hearing for 2-weeks, leaves open the chance that the Commission will render a verbal decision at the close of the second hearing with a final order and findings being acted upon 2 weeks later.

My advise would be to embrace the opportunity to field any and all comments/concerns that may be raised at the initial hearing and what follows. For the Wilder folks, it is largely about educating them about the project. I have yet to see anything that would suggest an issue with any of the approval criteria.

Derrick I. Tokos, AICP

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

From: Tim Gross <tgross@civilwest.net>

Sent: Saturday, April 8, 2023 9:32 AM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Cc: dustin capriarchitecture.com <dustin@capriarchitecture.com>; amanda capriarchitecture.com <amanda@capriarchitecture.com>; Luke Frechette

<lukefrechette@gmail.com>; Tobias Cook <Tobias@southbeachchurch.org>

Subject: Re: Conditional Use Application of South Beach Church, File No. 2-CUP-23

[WARNING] This message comes from an external organization. Be careful of embedded links.

I don't really understand. This allows for an extension of the hearing to allow additional evidence or testimony to be given. We haven't even had the initial hearing. This implies that they need the time to reply to evidence given at the hearing, not to just delay the process. It also allows the Planning Commission a couple options, to allow additional oral testimony or just written evidence. I will not be so presumptuous to request one or the other at this point, I will reserve that request for the hearing. However, Bonnie is requesting a hearing extension to allow SBC to develop additional evidence for her by holding an informational meeting on the proposed development. It seems that anyone who is interested in more information on the development can just come to the planning commission hearing where all their questions can be asked. Isn't that sort of the point?

Does the planning commission have to grant a hearing extension if the request is for the wrong reasons?

Timothy Gross, PE

Senior Project Manager

North Coast Region - Newport

p 541.982.4240 | c 541.961.7489

Civil West Engineering Services, Inc.

609 SW Hurbert St., Newport, OR 97365

www.civilwest.com

On Apr 7, 2023, at 7:49 PM, Derrick Tokos
<D.Tokos@newportoregon.gov> wrote:

ORS 197.797(6)(a)

Sherri Marineau

From: Virginia Perry
Sent: Monday, April 10, 2023 5:26 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

Greetings Newport City government,

As a long-time resident of the coast, I would like to express my strong support for the new South Beach Church building in the Wilder area. SBC is an active part of the Newport / South Beach community, reaching out to assist those in need and participating in efforts to thoughtfully steward resources in our beautiful town. The new church building and school will enrich and elevate the neighborhood in many ways, including aesthetically.

Thank you for taking the time to listen.

Sincerely,

Virginia Perry

Sherri Marineau

From: Barb Wright <abcdewright@gmail.com>
Sent: Monday, April 10, 2023 4:50 PM
To: Public comment
Subject: South Beach Church

[WARNING] This message comes from an external organization. Be careful of embedded links.

A new building for South Beach Church at the proposed location in South Beach will be an asset for our community. The church has had a positive impact in our family and for many of our friends and acquaintances. The church has been very supportive in community needs; helping and supporting Fisherman's Wives, meeting the needs of the homeless community, and providing a positive environment where young people like to be. We are hopeful that the new church building will allow SBC to help more and more members of our community. South Beach Christian School is another example of meeting the needs of many families. The new building will allow for growth and expansion of the school. We are long time members of the community of Newport and treasure the relationships and sense of community here. Thank you city council for allowing South Beach Church to expand.

Sincerely,

Dave and Barb Wright,

APR 17 2023

RECEIVED

16 April 2023

City of Newport Oregon
Community Development and Planning

Attn Derrick Tokos and Member of the Planning Commission

This letter and comments is directed to The South Beach Church/Capri Architecture application (2-CUP-23) for their Conditional Use Permit application.

I attended and testified at the previous public hearing on this matter on 10 April. My testimony was in the "other" category-at the time neither in support or opposition. I was only testifying for my concern for the fragility of the bordering wetlands and the development's impact on the wetland and biological communities.

After hearing the architect's, contractor's and citizens testimony, I would like to express my concerns and at this time opposition to the application. This is based for two main reasons.

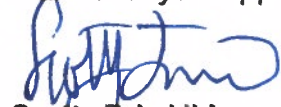
1. For most of the issues on potential community impact from the development, either provided in the applicants testimony or addressed by The Planning Commission, there were no definitive answers. There were only vague proposals and "assurances". "We are good community members so have faith in our intent". This included overflow parking design/issues, noise mitigation, lighting and control of wastewater runoff. Ideas were presented but no firm design assurances provided. These are all big community concerns.
2. With the size of the buildings (20,000 sq ft) along with the hard surface access and proposed 147 paved parking spaces and 100 additional overflow parking there was no feasible plan presented that all the runoff would not directly impact the wetland. Including volume of water, siltation and/or pollutants. The wetland is a diverse and fragile resource home to over a hundred species of birds, mammals and amphibians-some even federally monitored. I have seen no guarantees that as this development is purposed it will not negatively affect this habitat. I was surprised to hear that an environmental impact study was not required. To me this would be a critical part of this type of process.

Has there been any discussion to collect the sites wastewater runoff and discharge it into The City's storm water system?

There was also frustration expressed from the developer about the required continuance asked for by the neighboring community. My impression was the South Beach Church had very good community outreach while the general neighboring community was limited.

And since the public hearing was available to absent Commission Members and the South Beach Church's Pastor via Zoom, are/could all meetings have a digital platform for testimony for those unable to attend in person?

Thanks for your appreciated public service and consideration of these issues.



Scotty Fairchild
3603 SE Chestnut St
South Beach

scottyyttocs@gmail.com
503 230-1015

Sherri Marineau

From: Derrick Tokos
Sent: Monday, April 24, 2023 1:14 PM
To: Sherri Marineau
Subject: FW: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Please share with the Commission.

Derrick

From: Bonnie Serkin <Bonnie@eenw.com>
Sent: Monday, April 24, 2023 1:10 PM
To: Derrick Tokos <D.Tokos@NewportOregon.gov>
Subject: Re: Conditional Use Application of South Beach Church, File No. 2-CUP-23

Thank you for the clarification, Derrick. I was not asking that the conditional use permit be reconsidered in the future, but that, as a condition of approval now, the Church be required to monitor parking, traffic flow, and noise; remediate problems that are discovered; and meet with neighbors to report on the status. I have also asked Luke Frechette to agree to this voluntarily since he assured neighbors Friday evening that the Church was equally concerned about parking, noise, and traffic.

Irrespective of future monitoring and evaluation, I request that the Planning Commission add as a condition of approval that the Church arrange for traffic control along SE 40th and Harborton Streets for Sunday services and at other times when crowds are expected.

Bonnie

Sent from my iPhone

On Apr 24, 2023, at 12:00 PM, Derrick Tokos <D.Tokos@newportoregon.gov> wrote:

Hi Bonnie,

Thanks for reaching out, and we will pass along your comments to the Planning Commission. With respect to your recommended conditions, the City cannot stipulate that a conditional use permit approval be revisited at some time in the future. If the Commission elects to approve the South Beach Church's conditional use permit application, and the City later finds that there is excessive noise or traffic safety issues, then it will need to enforce its road authority and nuisance codes to secure the necessary changes.

Derrick I. Tokos, AICP
Community Development Director
City of Newport
169 SW Coast Highway
Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

-----Original Message-----

From: Bonnie Serkin <Bonnie@eenw.com>

Sent: Monday, April 24, 2023 10:34 AM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Subject: Conditional Use Application of South Beach Church, File No. 2-CUP-23

[WARNING] This message comes from an external organization. Be careful of embedded links.

Dear Derrick,

The efforts of South Beach Church to reach out to Wilder residents since the April 10 hearing are much appreciated. I am also pleased with the responsiveness of Dustin Capri to the concerns I expressed in my previous email to you and in separate communications with him. A better understanding of the project's on-site parking provisions and noise dampening features has been achieved.

There is one aspect I mentioned previously that I still believe has not been adequately addressed: ensuring smooth traffic flow on SE 40th and Harborton Streets on Sundays and during other well-attended Church or school events. At the neighborhood meeting last Friday evening Pastor Luke Frechette indicated that there is not a plan in place for this, although many churches do have what he referred to as "traffic ministers" - volunteers who direct vehicle movement at peak times. It remains to be seen whether traffic flow will present a problem for Church attendees and other users of SE 40th and Harborton Streets: Oregon State University's housing campus, Oregon Coast Community College, and the Wilder community.

I propose that as a condition of approval, the Planning Commission require an assessment of traffic flow after the Church has been operating on the site for a reasonable period of time, at which point remedial measures can be implemented if necessary.

Similarly, since both noise levels and parking have been raised as significant considerations, I also propose that a condition be added requiring an assessment of parking sufficiency and effective noise control after the Church has been operating for a reasonable time, at which point remedial measures can be implemented if necessary.

Thank you.

Bonnie Serkin
Chief Operating Officer
Landwaves, Inc.

Case File: #3-CUP-23
 Date Filed: March 29, 2023
 Hearing Date: April 24, 2023 Planning Commission

PLANNING STAFF REPORT

Case File No. 3-CUP-23

- A. **APPLICANT:** Steve Palmer (applicant) and GLTRI, LLC, Linda Lewton, manager (owner).
- B. **REQUEST:** Approval per Chapter 14.03.080(18)/“Water-Dependent and Water-Related Uses” of the Newport Municipal Code (NMC) for a conditional use permit to allow the operation of a historical themed photography booth studio.
- C. **LOCATION:** 602 SW Bay Blvd
- D. **LEGAL DESCRIPTION:** Lot 6, Block 3, Plan of Newport (Assessor’s Map 11-11-08-CA, Tax Lots 05300).
- E. **LOT SIZE:** Approximately 4,356 sq. ft. per Lincoln County Tax Assessor records.
- F. **STAFF REPORT**

1. **REPORT OF FACT**

- a. **Plan Designation:** Yaquina Bay Shoreland.
- b. **Zone Designation:** W-2/“Water-Related.”
- c. **Surrounding Land Uses:** Tourist-oriented retail and seafood processing.
- d. **Topography and Vegetation:** The developed portion of the property, facing Bay Blvd is flat. The rear of the property slopes up steeply along SW Fall Street.
- e. **Existing Structures:** The existing building currently includes the Bay Haven Inn and an adjacent retail gift shop that the applicant will partially occupy with a vintage themed photo studio. The building was constructed in 1910 and is 3,300 sq. ft. per Lincoln County Assessor records. Most of the space is occupied by Bay Haven. The applicant notes that the photo studio will occupy a 17-ft x 35-ft (595 sq. ft.) portion of the retail space (Attachment "E").
- f. **Utilities:** All are available to the site.
- g. **Development Constraints:** Tsunami Hazard Overlay.
- h. **Past Land Use Actions:** File No. 8-CUP-93 – Authorized expansion of the existing retail gift shop into a space previously occupied by a laundromat. Approved 1/24/94.

File No. 11-CUP-92. Approved a retail gift shop use with an appointment only hair salon. The Bay Haven Inn was also expanded. Approved 9/14/92.

- i. **Notification:** Notification to surrounding property owners and to city departments/public agencies was mailed on March 30, 2023, and notice of the April 24, 2023 public hearing was published in the Newport News-Times on April 14, 2023.

- j. **Attachments:**

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Land Sales Contract Listing GLTRI, LLC as Owner
- Attachment "D" – Applicant's Narrative
- Attachment "E" – Applicant's Site Plan
- Attachment "F" – Photograph of the Building
- Attachment "G" – Zoning Map and Aerial Image of the Property
- Attachment "H" – Terrain and Utility Map of the Property
- Attachment "I" – Final Order and Findings for File 4-CUP-21
- Attachment "J" – Public Hearing Notice

- 2. **Explanation of the Request:** Pursuant to Chapter 14.03.080(18)/"Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), a retail use that is permitted outright in a C-2/"Tourist Commercial" zoning district requires a conditional use permit to be located in a W-2/"Water-Related" zoning district.

The applicant is requesting the conditional use permit to operate an historic costume-based photography studio geared towards tourists. A similar application by the applicant was approved in 2021 at 342 SW Bay Blvd (Attachment "I"). The applicant is looking to move the photo studio to this new location.

With the previous application, the applicant noted that the studio will include costumes for 1920's Flapper/Gangsters, 1920's style swimwear, vintage fisherman/women's apparel, and 1960's hippie themes. He further pointed that themes will include hats, costumes, props and backdrops, and that the studio will include a small gift shop. With this current application, the applicant notes that they hope to add a vintage fishing theme this year (Attachment "D").

Photographic studios are listed as a personal service retail use, which is not a permitted use in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iii)). However, studios in a generic sense are listed as a type of entertainment-oriented retail use that is permitted outright in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iv)), meaning such a use can be permitted in the W-2 zone district if approved as part of a conditional use permit (NMC 14.03.080(18)).

The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). In this case the discretion is whether or not this business model fits as an entertainment-oriented retail use as opposed to a personal service use. Given the themed nature of this particular photographic studio, it would be reasonable for the Commission to find, as it did previously, that the studio is more entertainment oriented, and would complement the blend of uses in a tourist destination such as the Bayfront.

3. **Evaluation of the Request:**

a. **Comments:** No comments have been received related to this application.

b. **Conditional Use Criteria (NMC Chapter 14.34.050):**

(1) The public facilities can adequately accommodate the proposed use.

(2) The request complies with the requirements of the underlying zone or overlay zone.

(3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

(4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

c. **Staff Analysis:**

To grant the permit, the Planning Commission must find that the applicant's proposal meets the following criteria.

(1) **The public facilities can adequately accommodate the proposed use.**

Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property, as noted on the terrain and utility map included with the application (Attachment "H"). The applicant will be occupying an existing tenant space.

Given the above, it is reasonable for the Planning Commission to find that the public facilities can adequately accommodate the use.

(2) **The request complies with the requirements of the underlying zone or overlay zone.**

This criterion addresses requirements of the underlying or overlay zone. Each zoning district includes "intent" language. For the W-2 district, it includes the following:

"All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality." (NMC 14.03.040)

The Bayfront has historically included a blend of tourist-oriented retail, restaurants, and entertainment venues. Ripley's Believe It or Not is located a short distance to the east. It would be reasonable for the Commission to find that this vintage themed photographic studio will maintain the historic and unique quality of the area.

- (3) The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

As depicted on the photograph of the building (Attachment "F") and the applicant's site plan (Attachment "E"), the photography studio will be located within the interior of an existing tenant space where it would have little, if any, impact on nearby properties.

Given the above, it is reasonable for the Planning Commission to find that this criterion has been satisfied.

- (4) A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

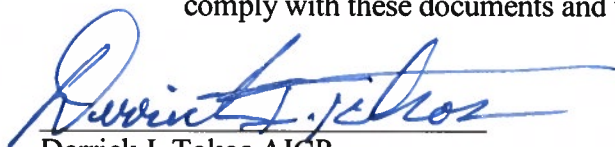
The only exterior modifications attributed to this proposal is a 19-inch by 28-inch sign to advertise the business (Attachment "D"). This will require a separate sign permit.

Given the above, it is reasonable for the Planning Commission to find that the use will be consistent with the overall development character of the neighborhood regarding building size and height.

4. **Conclusion:** If the Planning Commission finds that the applicant has met the criteria established in the Zoning Ordinance for granting a conditional use permit, then the Commission should approve the request. The Commission can attach reasonable conditions that are necessary to carry out the purposes of the Zoning Ordinance and the Comprehensive Plan. If the Commission finds that the request does not comply with the criteria, then the Commission should deny the application.

- G. **STAFF RECOMMENDATION:** As outlined in this report, this application to allow a vintage themed photography studio as an entertainment-oriented, as opposed to a personal service, retail use can satisfy the approval criteria for a conditional use provided conditions are imposed as outlined below. Accordingly, the Commission should approve this request, subject to the following:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.



Derrick I. Tokos AICP
Community Development Director
City of Newport

April 21, 2023



City of Newport Land Use Application

Attachment "A"

3-CUP-23

Applicant Name(s):	Property Owner Name(s) if other than applicant
Steve Palmer	Linda Lewton
Applicant Mailing Address:	Property Owner Mailing Address:
927 SW 11th Street Newport, OR	634 SE 2nd, Newport, OR
Applicant Phone No.	Property Owner Phone No.
541-351-5751	541-272-1182
Applicant Email	Property Owner Email
Stewesway78@gmail.com	linzgizmz@hotmail.com
Authorized Representative(s): Person authorized to submit and act on this application on applicant's behalf	
Authorized Representative Mailing Address:	
Authorized Representative Telephone No.	
Authorized Representative Email.	

Project Information

Property Location: Street name if address # not assigned	
602 SW Bay Blvd	
Tax Assessor's Map No.:	Tax Lot(s):
Zone Designation:	Legal Description: Add additional sheets if necessary
Comp. Plan Designation:	
Brief description of Land Use Request(s):	
Examples:	
1. Move north property line 5 feet south	
2. Variance of 2 feet from the required 15-foot front yard setback	
Existing Structures: if any	

Topography and Vegetation:

Application Type (please check all that apply)

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Interpretation | <input type="checkbox"/> UGB Amendment |
| <input type="checkbox"/> Appeal | <input type="checkbox"/> Minor Replat | <input type="checkbox"/> Vacation |
| <input type="checkbox"/> Comp Plan/Map Amendment | <input type="checkbox"/> Partition | <input type="checkbox"/> Variance/Adjustment |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Planned Development | <input type="checkbox"/> PC |
| <input type="checkbox"/> PC | <input type="checkbox"/> Property Line Adjustment | <input type="checkbox"/> Staff |
| <input type="checkbox"/> Staff | <input type="checkbox"/> Shoreland Impact | <input type="checkbox"/> Zone Ord/Map |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Subdivision | <input type="checkbox"/> Amendment |
| <input type="checkbox"/> Geologic Permit | <input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> Other |

FOR OFFICE USE ONLY

File No. Assigned: 3-CUP-23		
Date Received: 3/29/23	Fee Amount: \$967-	Date Accepted as Complete:
Received By: sm	Receipt No. 6805	Accepted By:

City Hall
169, SW Coast Hwy
Newport, OR 97365
541.574.0629

625-23-000022-PUNG



City of Newport Land Use Application

I understand that I am responsible for addressing the legal criteria relevant to my application and that the burden of proof justifying an approval of my application is with me. I also understand that this responsibility is independent of any opinions expressed in the Community Development and Planning Department Staff Report concerning the applicable criteria.

I certify that, to the best of my knowledge, all information provided in this application is accurate.

Steve Palmer

Applicant Signature(s)

3-28-23

Date

[Signature]

Property Owner Signature(s) (if other than applicant)

3-28-23

Date

Authorized representative Signature(s) (if other than applicant)

Date

Please note application will not be accepted without all applicable signatures.

Please ask staff for a list of application submittal requirements for your specific type of request.

LINCOLNPROD PROPERTY RECORD CARD

Attachment "B"

3-CUP-23 Date: 4/11/2023 9:25:46 AM

Property ID: R435087

Map and Taxlot: 11-11-08-CA-05300-00

Tax Year: 2023

PROPERTY SITUS ADDRESS

02 SW BAY BLVD
Maintenance Area: 5-09

OWNER NAME AND MAILING ADDRESS

IGERL ALLAN WAYNE
ARRABEE KATHERINE L
08 SW BAY BLVD
EWPORT, OR 97365

LEGAL DESCRIPTION

EWPORT, BLOCK 3, LOT 6, DOC201710944

GENERAL PROPERTY INFORMATION

Prop Class: 201
NBH Code: N216
Prop Type Code: COM
Prop Code: Z5: COMMERCIAL NEWPORT & LINC
Next Appr Date:
Next Appr Reason:
Last Appr Date: 10/02/2008
Appraiser: PAB, BD
Zoning: W-2
Code Area: 104
Related Accts: P301238, P505781, P508900,
P510565, P511217, P511295,

VALUE HISTORY

Year	Land RMV	Imp RMV	Total RMV	Total AV	LSU Value
2022	173,280	315,450	488,730	298,890	
2021	167,200	207,740	374,940	290,190	
2020	152,000	184,660	336,660	281,740	
2019	152,000	184,660	336,660	273,540	
2018	152,000	146,190	298,190	265,580	
2017	152,000	146,190	298,190	257,850	

ASSESSMENT INFORMATION

Land Non-LSU:	173,280	Prior MAV:	298,890	Except RMV:	
Improvement:	315,450	Prior MAV Adj:		CPR:	
Non-LSU RMV Total:	488,730	Prior AV:	298,890	EX. MAV:	
Land LSU:		Prior AV Adj:		LSU:	
RMV Total:	488,730	AV +3%:	307,857	New M50 AV:	307,857

SALES INFORMATION

Date	Type	Sale Price	Adj Sale Price	Validity	Inst. Type	Sale Ref
11/01/2017	18			SALE	MOC MEMORANDUM	201710944
01/01/1988	20			SALE	MOC MEMORANDUM	MF225-0839
	12			SALE	WD WARRANTY DEE	MF373-1670

Cres: 0 Sqft:

Effective Acres: 0

BUILDING PERMITS AND INSPECTIONS

Type	Appraiser	Issue Date	Date Checked	% Comp	Comment
------	-----------	------------	--------------	--------	---------

PARCEL COMMENTS

enFlag- M_09C
Prop-Note- BAY HAVEN INN
and- BAY HAVEN INN;PTO TL/5200

EXEMPTIONS

Code	Exempt RMV
------	------------

Exceptions

Code	Year	Amount	Method
------	------	--------	--------

MARKET LAND INFORMATION

Type	Table	Method	Acres	Base Value	Adjustment Code - %
S: COMMERCIAL DEV SITE	5BSF	SFT	0.100	35	
SD: COMMERCIAL SITE DEVELOPMENT	NOSC	LT		5,000	
Total Acres:			0.100		

NBHD %	Total Adj %	Final Value
1.140	1.140	167,580
1.140	1.140	5,700
Total Market Land Value:		173,280

LAND SPECIAL USE

Code	SAV	Unt Pr	MSAV	Unt Pr	LSU
Total LSU:					

LINCOLNPROD PROPERTY RECORD CARD

property ID: R435087

Map and Taxlot: 11-11-08-CA-05300-00

Tax Year: 2023

Run Date: 4/21/2023 9:25:46 AM

COMMERCIAL IMPROVEMENTS																			
o.	Inst. ID	OAA Seg	Business Name	Occupancy	Class	Occ %	Stories	Hgt	Rank	Yr Blt	Eff Yr	Area	Perim	Adjustment Code-%	NBHD %	Total Adj %	RCNLD	MS Depr %	RMV
.1	2647959	MA		350-Restaur		100	1		2.0	1910		3,300			4.100	4.100	76,940		315,45
Total RMV:																			315,45

COMMERCIAL ADDITIONS					COMMERCIAL BASEMENTS					COMMERCIAL COMMENTS									
o.	Instance ID	Type	Desc	Value	No.	Instance ID	Bsmt Type	Area	Depth										


WTE WTD148352 NPT LMD
 SELLERS: Allan Wayne Kigerl and Katherine Lenore Larrabee
 5028N. Post St., Spokane, WA 99205


BUYER: GLTRI, LLC
 P.O. Box 809, Newport, OR 97365

After Recording Return To: Western Title and Escrow
 225 SW Coast Hwy, Ste 100, Newport, OR 97365

Sent Tax Statements To: GLTRI, LLC
 P.O. Box 809, Newport, OR 97365

Lincoln County, Oregon
 11/06/2017 02:49:14 PM 2017-10944
 DOC-MM/C Cnt=1 Pgs=4 Stn=0
 \$20.00 \$11.00 \$10.00 \$20.00 \$7.00 \$68.00
 I, Dana W. Jenkins, County Clerk, do hereby certify that
 the within instrument was recorded in the Lincoln County
 Book of Records on the above date and time. WITNESS
 my hand and seal of said office affixed.


 Dana W. Jenkins, Lincoln County Clerk



MEMORANDUM OF LAND SALE CONTRACT

THIS MEMORANDUM OF CONTRACT, is dated this 1st day of November 2017,
 2017, between Allan Wayne Kigerl and Katherine Lenore Larrabee, as "Sellers," and GLTRI, LLC,
 an Oregon limited liability company, company, as "Buyer." Also known as Katherine L. Larrabee

Pursuant to the terms and conditions and for the consideration as set forth in that certain Land
 Sale Contract executed this date, by and between Seller and Buyer, Seller has agreed to sell and Buyer
 has agreed to purchase the real property described as follows:

Lot 6, Block 3, NEWPORT, in Lincoln County, Oregon

The true and actual consideration paid for the property, stated in terms of dollars, is Five
 Hundred Ninety-nine Thousand Dollars (\$599,000.00). The consideration is payable in monthly
 installments, including interest at a rate of 6.5 percent (6.5%) per annum on the unpaid balances.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE
 ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 195.305 TO 195.336 AND
 SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS
 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE
 PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND
 REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO
 THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO
 VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS
 DEFINED IN ORS 92.010 OR ORS 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO
 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930,
 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, ORS
 195.301 AND ORS 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9
 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

SELLERS:

BUYER:

ALLAN WAYNE KIGERL

GLTRI, LLC, by:

LINDA LEWTON, Manager

KATHERINE L. LARRABEE

TIMOTHY GREEN, Member

STATE OF WASHINGTON, County of Spokane:

Personally appeared the above named ALLAN WAYNE KIGERL and acknowledged the foregoing instrument to be his voluntary act and deed this ____ day of _____, 2017.

Notary Public for the State of Washington
My Commission Expires: _____

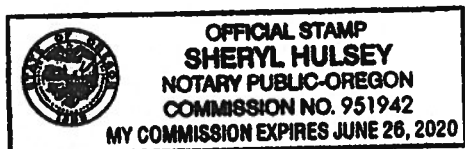
STATE OF WASHINGTON, County of Spokane:

Personally appeared the above named KATHERINE ~~LENORE~~ ^{Also known as Katherine Lenore} LARRABEE, and acknowledged the foregoing instrument to be her voluntary act and deed this ____ day of _____, 2017..

Notary Public for the State of Washington
My Commission Expires: _____

STATE OF OREGON, County of Lincoln:

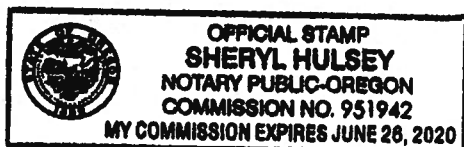
Personally appeared the above named LINDA LEWTON ^{and Linda Patricia T. Lewton /SH} as manager of GLTRI, LLC, and acknowledged the foregoing instrument to be her voluntary act and deed on behalf of said entity this 1st day of November, 2017.



Notary Public for the State of Oregon

STATE OF OREGON, County of Lincoln :

Personally appeared the above named TIMOTHY ^{K.} GREEN as a member of GLTRI, LLC and acknowledged the foregoing instrument to be his voluntary act and deed on behalf of said entity this 1st day of November, 2017.



Notary Public for the State of Oregon

SELLERS: Allan Wayne Kigerl and Katherine Lenore Larrabee
5028N. Post St., Spokane, WA 99205

BUYER: GLTRI, LLC
P.O. Box 809, Newport, OR 97365

After Recording Return To: Western Title and Escrow
225 SW Coast Hwy, Ste 100, Newport, OR 97365

Sent Tax Statements To: GLTRI, LLC
P.O. Box 809, Newport, OR 97365

MEMORANDUM OF LAND SALE CONTRACT

THIS MEMORANDUM OF CONTRACT, is dated this 1st day of November 2017, 2017, between Allan Wayne Kigerl and Katherine Lenore Larrabee, as "Sellers," and GLTRI, LLC, an Oregon limited liability company, company, as "Buyer." Also known as Katherine L. Larrabee

Pursuant to the terms and conditions and for the consideration as set forth in that certain Land Sale Contract executed this date, by and between Seller and Buyer, Seller has agreed to sell and Buyer has agreed to purchase the real property described as follows:

her
initial

Lot 6, Block 3, NEWPORT, in Lincoln County, Oregon

The true and actual consideration paid for the property, stated in terms of dollars, is Five Hundred Ninety-nine Thousand Dollars (\$599,000.00). The consideration is payable in monthly installments, including interest at a rate of 6.5 percent (6.5%) per annum on the unpaid balances.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR ORS 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

SELLERS:

BUYER:

Allan Wayne Kigerl
ALLAN WAYNE KIGERL

GLTRI, LLC, by:

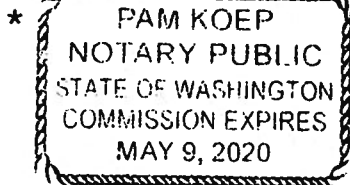
Linda Lewton
LINDA LEWTON, Manager

Katherine Lenore Larrabee
KATHERINE L. LARRABEE

Timothy Green
TIMOTHY GREEN, Member

STATE OF WASHINGTON, County of Spokane:

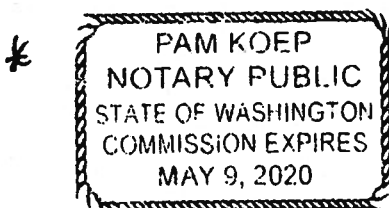
Personally appeared the above named ALLAN WAYNE KIGERL and acknowledged the foregoing instrument to be his voluntary act and deed this 18 day of NOV, 2017.



Pam Koep
Notary Public for the State of Washington
My Commission Expires: 5/9/20

STATE OF WASHINGTON, County of Spokane:

Personally appeared the above named KATHERINE ~~LENORE~~ LARRABEE, and acknowledged the foregoing instrument to be her voluntary act and deed this 18 day of NOV 2017, 2017.. *Attest known as Katherine Lenore Larrabee*



Pam Koep
Notary Public for the State of Washington
My Commission Expires: 5/9/20

STATE OF OREGON, County of Lincoln:

Personally appeared the above named LINDA LEWTON as manager of GLTRI, LLC, and acknowledged the foregoing instrument to be her voluntary act and deed on behalf of said entity this ____ day of _____, 2017.

Notary Public for the State of Oregon

STATE OF OREGON, County of Lincoln :

Personally appeared the above named TIMOTHY GREEN as a member of GLTRI, LLC and acknowledged the foregoing instrument to be his voluntary act and deed on behalf of said entity this ____ day of _____, 2017.

Notary Public for the State of Oregon

*Pam Koep

Notary Public
State of Washington
Commission Expires
May 9, 2020

2 - MEMORANDUM OF LAND SALE CONTRACT

Attachment "D"

3-CUP-23

Newport Planning Commission,
3-28-23

The plans for Sunbreak Studio DBA Doc Yesterday's Old Time Photography at 602 SW Bay Blvd, Newport, is to be tourist related photography, as approved before in 2021, which was also on the bayfront. We are just moving a few hundred feet down the bayfront on the same side of the sidewalk.

We will take photos of people dressed up with props and themed backdrops. Two of the themes are Wild West and Roaring 20's. We hope to add a Vintage Fishing theme this year.

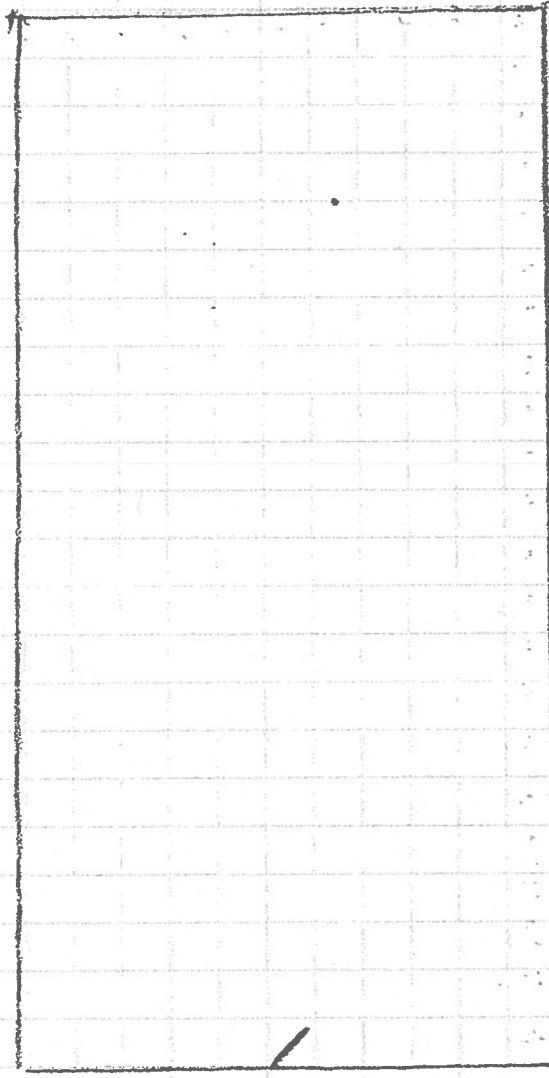
The sign will be small at 19 inch x 28 inches.

Thank you,
Steve Palmer
541-351-5751
927 Sw 11th St, Newport, OR 97365. (home)

Sunbreak Studio
602 S.W. Bay Blvd
Newport

March 27-2028

17 Feet



35 feet

Front Door

Bay Blvd

Attachment "F"
3-CUP-23

Photograph of 602 SW Bay Blvd



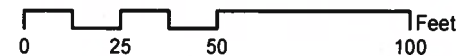


City of Newport
Community Development Department
169 SW Coast Highway
Newport, OR 97365
Phone: 1.541.574.0629
Fax: 1.541.574.0644

This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

Zoning Map 602 SW Bay Blvd

Image Taken July 2018
4-Inch, 4-band Digital Orthophotos
Quantum Spatial, Inc. Corvallis, OR





Attachment "I"

3-CUP-23

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

IN THE MATTER OF PLANNING COMMISSION)	
FILE #4-CUP-21, A CONDITIONAL USE PERMIT)	FINAL
APPLICATION FOR STEVE PALMER (JASON S ASCH)	ORDER
SEPARATE PROPERTY TRUST, OWNER))	

ORDER APPROVING A CONDITIONAL USE PERMIT, per Newport Municipal Code Sections 14.03.080(18) and 14.03.080(19)/"Water-dependent and Water-related Uses," to allow the operation of a historical themed photography booth studio in Suite "H" of the Gear Shed Shops at 342 SW Bay Blvd. It is identified as Lots 3 and 4, Block 5, Plan of Newport (Assessor's Map 11-11-08-DB, Tax Lots 00500). The property is approximately 7,405.2 sq. ft. in size per Lincoln County Tax Assessor records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on May 24, 2021; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested conditional use permit with the following condition(s):

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

BASED UPON THE ABOVE, the Planning Commission determines that this request for a Conditional Use Permit is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 24th day of May, 2021.


James Patrick, Chair
Newport Planning Commission

Attest:


Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 4-CUP-21

FINDINGS OF FACT

1. Steve Palmer (applicant) and Jason S Asch Separate Property Trust, Jason S Asch Trustee (owner), applied on April 19, 2021, for approval of a Conditional Use Permit to allow the operation of a historical themed photography booth studio in Suite "H" of the Gear Shed Shops at 342 SW Bay Blvd.
2. The subject property is identified as Lots 3 and 4, Block 5, Plan of Newport (Assessor's Map 11-11-08-DB, Tax Lots 00500). The property is approximately 7,405.2 sq. ft. in size per Lincoln County Tax Assessor records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Yaquina Bay Shoreland.
 - b. Zone Designation: W-2/"Water-Related."
 - c. Surrounding Land Uses: Tourist-oriented retail.
 - d. Topography and Vegetation: The developed portion of the property, facing Bay Blvd is flat. The rear of the property slopes up steeply to a parking lot.
 - e. Existing Structures: The existing building is a 6,664 sq. ft. former fishing gear shed that began to transition to multi-tenant retail in the mid-1990's.
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Tsunami Hazard Overlay.
 - h. Past Land Use Actions: File No. 4-CUP-96 – Authorized use of a 324 square foot (5%) portion of an existing fishing gear shed as a gift shop. Approved 4/26/96. File No. 8-CUP-98. Permitted conversion of the balance of the building to retail use. Approved 10/26/98.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on May 24, 2021, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 12:00 noon on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on May 14, 2021. No comments were received in response to the notice.
5. A public hearing was held on May 24, 2021. At the hearing, the Planning Commission received the staff report, provided the applicant an opportunity to make a presentation and opened the floor to testimony in favor or opposition to the request. The minutes of the May 24, 2021 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby

incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Lincoln County Assessor Map
- Attachment "D" – Business Plan for Sunbreak Studios
- Attachment "E" – Applicant's Signage Plan
- Attachment "F" – Aerial Image Showing Applicant's Lease Space
- Attachment "G" – Exterior Elevation of Building (File No. 8-CUP-98)
- Attachment "H" – Interior Floor Plan of Building (File No. 8-CUP-98)
- Attachment "I" – Zoning and Utility Map
- Attachment "J" – Uses in the W-2 Zoning District
- Attachment "K" – Public Hearing Notice

6. **Explanation of the Request:** The applicant is requesting the conditional use permit to operate an historic costume-based photography studio geared towards tourists. It will include costumes for 1920's Flapper/Gangsters, 1920's style swimwear, vintage fisherman/women's apparel, and 1960's hippie themes. The applicant notes that themes will include hats, costumes, props and backdrops, and that the studio will include a small gift shop.

Photographic studios are listed as a personal service retail use, which is not a permitted use in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iii)). However, studios in a generic sense are listed as a type of entertainment-oriented retail use that is permitted outright in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iv)), meaning such a use can be permitted in the W-2 zone district if approved as part of a conditional use permit (NMC 14.03.080(18)).

The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). In this case the discretion is whether or not this business model fits as an entertainment-oriented retail use as opposed to a personal service use. Given the themed nature of this particular photographic studio, it would be reasonable for the Commission to find that it is more entertainment oriented, and would complement the blend of uses in a tourist destination such as the Bayfront.

7. **Conditional Use Permit Required:** Pursuant to Chapter 14.03.080(18)/"Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), a retail use that is permitted outright in a C-2/"Tourist Commercial" zoning district requires a conditional use permit to be in a W-2/"Water-Related" zoning district.

NMC 14.52.030(B)(9) indicates that a Type III decision-making procedure, with review and approval by the Planning Commission, is required for interpretations of the Zoning Ordinance that involve factual, policy or legal discretion. The Zoning Ordinance allows entertainment-oriented studios as an outright permitted use in the C-2 zone; however, photographic studios are also identified as a type of personal service use that is not permitted in the C-2 district. Policy discretion is required to establish which use classification is the best fit for the proposed business; therefore, Planning Commission review is required.

8. **Applicable Criteria:** The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. **Criterion #1.** *The public facilities can adequately accommodate the proposed use.*

- 1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property. As noted on the aerial image included with the application (Attachment "F"), the applicant will be occupying an existing tenant space.
- 2. Considering the above, the Planning Commission concludes that the public facilities can adequately accommodate the remodel and expansion with the conditions noted.

B. **Criterion #2.** *The request complies with the requirements of the underlying zone or overlay zone.*

- 1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. Each zoning district includes "intent" language. For the W-2 district, it includes *"All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality."* (NMC 14.03.040)
- 2. The Bayfront has historically included a blend of tourist-oriented retail, restaurants, and entertainment venues. Ripley's Believe It or Not is located a short distance to the east and the sea lion dock is across the street.
- 3. Given the above, the Planning Commissions concludes that this character themed photographic studio will maintain the historic and unique quality of the area.

C. **Criterion #3.** *The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.*

1. As depicted on the aerial image included with the application (Attachment "F") and interior floor plan (Attachment "H"), the photographic studio will be located within the interior of the building in an existing tenant space where it would have little, if any, impact on nearby properties

2. Given the above, the Planning Commission concludes that the proposed use does not have an adverse impact greater than existing uses on nearby properties.

D. *Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.*

1. The only exterior modifications attributed to this proposal is the signage, which will consist of fascia signage and a hanging sign under the awning and a sandwich board sign (Attachment "E"). This is consistent with the theme that was approved with the 1998 conditional use permit approval (ref: hanging sign illustration, Attachment "G").

2. Given the above, the Planning Commission concludes that the use will be consistent with the overall development character of the neighborhood regarding building size and height.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit is hereby approved with the imposition of the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

CITY OF NEWPORT PUBLIC NOTICE¹

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Newport, Oregon, will hold a public hearing to consider the following Conditional Use Permit request:

File No. 3-CUP-23:

Applicant & Owner: Steve Palmer (GLTRI LLC, Linda Lewton, owner representative).

Request: Approval of a request pursuant to Newport Municipal Code (NMC) Section 14.03.080/"Water-Dependent and Water-Related Uses" of the Newport Zoning Ordinance, for a conditional use permit to allow the operation of a historical themed photography booth studio at the subject property that is located in a W-2/"Water-Related" zone.

Location/Subject Property: 602 SW Bay Blvd, Newport, OR 97365 (Tax Map 11-11-08-CA, Tax Lot 5300).

Applicable Criteria: NMC Chapter 14.34.050: (1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

Testimony: Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department (address below under "Reports/Application Material") must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application.

Reports/Application Material: The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, Oregon, 97365, seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at this address.

Contact: Derrick Tokos, Community Development Director, (541) 574-0626 (address above in "Reports/Application Material").

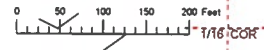
Time/Place of Hearing: Monday, April 24, 2023; 7:00 p.m.; City Hall Council Chambers (address above in "Reports/Application Material").

MAILED: March 30, 2023.

PUBLISHED: April 14, 2023 /News-Times.

¹ Notice of this action is being sent to the following: (1) Affected property owners within 200 feet of the subject property according to Lincoln County tax records; (2) affected public utilities within Lincoln County; and (3) affected city departments.

Subject Property
File No. 3-CUP-23



N.E.1/4 S.W.1/4 SEC.8 T.11S. R.11W. W.M.
LINCOLN COUNTY
1" = 100'

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

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NEWPORT

115

104

YAQUINA
BAY

- Cancelled
- 1000-22
- 1100-21
- 1100-23
- 1300-21
- 1400-21
- 1400-22
- 1400-23
- 1500
- 1600
- 1600-21
- 1900-22
- 2100-21
- 2100-22
- 2100-L1
- 2200-21
- 2300
- 2300-21
- 2400-21
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- 2700
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- 3000
- 3200
- 3700-21
- 3800-21
- 7402
- 7800
- 8000
- 8100
- 8200
- 8900
- 9700
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- 11700
- 11800
- 11900
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- 12301
- 12400
- 12800
- 13800-21
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- 14900
- 15000
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- 15300-21
- 15400
- 15400-21
- 15500
- 15600
- 15600-42
- 15700
- 15700-20
- 15800
- 15900
- 16000

628 BAY LLC
PO BOX 1172
NEWPORT,OR 97365

ARMITAGE BARCLAY MARC
3716 NE 131ST ST
VANCOUVER,WA 98686

CITY OF NEWPORT
CITY MANAGER
169 SW COAST HWY
NEWPORT,OR 97365

CS PROPERTIES HOLD CO LLC
PO BOX 1230
NEWPORT,OR 97365

DULCICH REALTY ACQUISITION LLC
PACIFIC CHOICE SEAFOODS
PO BOX 1230
NEWPORT,OR 97365

DULCICH REALTY LLC
16797 SE 130TH AVE
CLACKAMAS,OR 97015

FIELDER SARAH J TSTEE
36176 HWY 228
BROWNSVILLE,OR 97327

JACKS SEAFOOD INC
155 SW DOLPHIN ST
NEWPORT,OR 97365

KIGERL ALLAN WAYNE & LARRABEE
KATHERINE L/GLTRI LLC
608 SW BAY BLVD
NEWPORT,OR 97365

KLOAK NANCY A TSTEE
449 SW 12TH ST
NEWPORT,OR 97365

MCENTEE CINDY M & DIXON JUDITH A
& DIXON KEVIN ETAL
622 SW BAY BLVD
NEWPORT,OR 97365

MOS ENTERPRISES INC
657 SW BAY BLVD
NEWPORT,OR 97365

RIPLEY KENNETH S
9211 124TH ST NE
ARLINGTON,WA 98223

YAQUINA BAY MEM ASSN
PO BOX 527
NEWPORT,OR 97365

STEVE PALMER
927 SW 11TH ST
NEWPORT,OR 97365

LINDA LEWTON
634 SE 2ND ST
NEWPORT,OR 97365

File 3-CUP-23

Adjacent Property Owners Within 200 Ft

NW Natural
ATTN: Dave Sanders
1405 SW Hwy 101
Lincoln City, OR 97367

Email: Bret Estes
DLCD Coastal Services Center
brett.estes@dlcd.oregon.gov

CenturyLink
ATTN: Corky Fallin
740 State St
Salem OR 97301

Central Lincoln PUD
ATTN: Ty Hillebrand
PO Box 1126
Newport OR 97365

Charter Communications
ATTN: Keith Kaminski
355 NE 1st St
Newport OR 97365

****EMAIL****
odotr2planmgr@odot.state.or.us

Joseph Lease
Building Official

Rob Murphy
Fire Chief

Aaron Collett
Public Works

Beth Young
Associate Planner

Jason Malloy
Police Chief

Steve Baugher
Finance Director

Laura Kimberly
Library

Michael Cavanaugh
Parks & Rec

Spencer Nebel
City Manager

Clare Paul
Public Works

Derrick Tokos
Community Development

David Powell
Public Works

Lance Vanderbeck
Airport

EXHIBIT 'A'
(Affected Agencies)

(3-CUP-23)

CITY OF NEWPORT

NOTICE OF A PUBLIC HEARING

The City of Newport Planning Commission will hold a public hearing on Monday, April 24, 2023, at 7:00 p.m. in the City Hall Council Chambers to consider File No. 3-CUP-23, a request submitted by applicant, Steve Palmer (GLTRI LLC, Linda Lewton, owner representative), for a conditional use permit filed pursuant to Newport Municipal Code (NMC) Section 14.03.080/"Water-Dependent and Water-Related Uses" of the Newport Zoning Ordinance, to allow the operation of a historical themed photography booth studio at the subject property that is located in a W-2/"Water-Related" zone. The property is located at 602 SW Bay Blvd, Newport, OR 97365 (Tax Map 11-11-08-CA, Tax Lot 5300). The applicable criteria per NMC Chapter 14.34.050 are that: 1) The public facilities can adequately accommodate the proposed use; 2) the request complies with the requirements of the underlying zone or overlay zone; 3) the proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval; and 4) a proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright. Testimony and evidence must be directed toward the criteria described above or other criteria in the Comprehensive Plan and its implementing ordinances which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal (including to the Land Use Board of Appeals) based on that issue. Submit testimony in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. Letters sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 3:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The hearing will include a report by staff, testimony (both oral and written) from the applicant and those in favor or opposed to the application, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Pursuant to ORS 197.797 (6), any person prior to the conclusion of the initial public hearing may request a continuance of the public hearing or that the record be left open for at least seven days to present additional evidence, arguments, or testimony regarding the application. The staff report may be reviewed or a copy purchased for reasonable cost at the Newport Community Development (Planning) Department (address above) seven days prior to the hearing. The application materials (including the application and all documents and evidence submitted in support of the application), the applicable criteria, and other file material are available for inspection at no cost; or copies may be purchased for reasonable cost at the above address. Contact Derrick Tokos, Community Development Director, (541) 574-0626, (address above).

FOR PUBLICATION ONCE ON FRIDAY, April 14, 2023.



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your go
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**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

**IN THE MATTER OF PLANNING COMMISSION)
FILE #3-CUP-23, A CONDITIONAL USE PERMIT) FINAL
APPLICATION FOR STEVE PALMER (GLTRI, LLC,) ORDER
LINDA LEWTON, MANAGER (OWNER)))**

ORDER APPROVING A CONDITIONAL USE PERMIT per Newport Municipal Code Sections 14.03.080(18) and 14.03.080(19)/“Water-Dependent and Water-Related Uses,” to allow the operation of a vintage themed photography studio at 602 SW Bay Blvd. The property is identified as Lot 6, Block 3, Plan of Newport (Assessor’s Map 11-11-08-CA, Tax Lots 05300). The property is approximately 4,356 sq. ft. in size per Lincoln County Tax Assessor records.

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on April 24, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the request for a conditional use permit with the following conditions(s):

1. 1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.

BASED UPON THE ABOVE, the Planning Commission determines that the request for a conditional use permit as submitted in the application is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 24th day of April, 2023.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 3-CUP-23

FINDINGS OF FACT

1. Steve Palmer (applicant) and GLTRI, LLC, Linda Lewton, manager (owner), applied on March 29, 2023, for approval of a Conditional Use Permit to allow the operation of a vintage themed photography studio at 602 SW Bay Blvd.
2. The subject property is identified as Lot 6, Block 3, Plan of Newport (Assessor's Map 11-11-08-CA, Tax Lots 05300). The property is approximately 4,356 sq. ft. in size per Lincoln County Tax Assessor records.
3. Staff reports the following facts in connection with the application:
 - a. Plan Designation: Yaquina Bay Shoreland.
 - b. Zone Designation: W-2/"Water-Related."
 - c. Surrounding Land Uses: Tourist-oriented retail and seafood processing.
 - d. Topography and Vegetation: The developed portion of the property, facing Bay Blvd is flat. The rear of the property slopes up steeply along SW Fall Street.
 - e. Existing Structures: The existing building currently includes the Bay Haven Inn and an adjacent retail gift shop that the applicant will partially occupy with a vintage themed photo studio. The building was constructed in 1910 and is 3,300 sq. ft. per Lincoln County Assessor records. Most of the space is occupied by Bay Haven. The applicant notes that the photo studio will occupy a 17-ft x 35-ft (595 sq. ft.) portion of the retail space (Attachment "E").
 - f. Utilities: All are available to the site.
 - g. Development Constraints: Tsunami Hazard Overlay.
 - h. Past Land Use Actions: File No. 8-CUP-93 – Authorized expansion of the existing retail gift shop into a space previously occupied by a laundromat. Approved 1/24/94. File No. 11-CUP-92. Approved a retail gift shop use with an appointment only hair salon. The Bay Haven Inn was also expanded. Approved 9/14/92.
4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on March 30, 2023, to affected property owners required to receive such notice by the Newport Municipal Code, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice required that written comments on the application be submitted by 3:00 pm on the date of the hearing, or be submitted in person at the hearing. The notice was also published in the Newport News-Times on April 14, 2023. No comments were received in response to the notice.

5. A public hearing was held on April 24, 2023. At the hearing, the Planning Commission received the staff report, provided the applicant an opportunity to make a presentation and opened the floor to testimony in favor or opposition to the request. The minutes of the April 24, 2023 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is hereby incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Application Form
- Attachment "B" – Lincoln County Assessor Property Report
- Attachment "C" – Land Sales Contract Listing GLTRI, LLC as Owner
- Attachment "D" – Applicant's Narrative
- Attachment "E" – Applicant's Site Plan
- Attachment "F" – Photograph of the Building
- Attachment "G" – Zoning Map and Aerial Image of the Property
- Attachment "H" – Terrain and Utility Map of the Property
- Attachment "I" – Final Order and Findings for File 4-CUP-21
- Attachment "J" – Public Hearing Notice

6. **Explanation of the Request:** The applicant is requesting the conditional use permit to operate an historic costume-based photography studio geared towards tourists. A similar application by the applicant was approved in 2021 at 342 SW Bay Blvd (Attachment "I"). The applicant is looking to move the photo studio to this new location.

With the previous application, the applicant noted that the studio will include costumes for 1920's Flapper/Gangsters, 1920's style swimwear, vintage fisherman/women's apparel, and 1960's hippie themes. He further pointed that themes will include hats, costumes, props and backdrops, and that the studio will include a small gift shop. With this current application, the applicant notes that they hope to add a vintage fishing theme this year (Attachment "D").

Photographic studios are listed as a personal service retail use, which is not a permitted use in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iii)). However, studios in a generic sense are listed as a type of entertainment-oriented retail use that is permitted outright in the C-2 zone district (NMC 14.03.060(C)(2)(b)(iv)), meaning such a use can be permitted in the W-2 zone district if approved as part of a conditional use permit (NMC 14.03.080(18)).

The Planning Commission is charged with interpreting the zoning ordinance in circumstances that require factual, policy or legal discretion (NMC 14.52.030(B)(9)). In this case the discretion is whether or not this business model fits as an entertainment-oriented retail use as opposed to a personal service use. Given the themed nature of this particular photographic studio, it would be reasonable for the Commission to find, as it did previously, that the studio is more entertainment oriented, and would complement the blend of uses in a tourist destination such as the Bayfront.

7. **Conditional Use Permit Required:** Pursuant to Chapter 14.03.080(18)/"Water-dependent and Water-related Uses" of the Newport Municipal Code (NMC), a retail use that is permitted outright in a C-2/"Tourist Commercial" zoning district requires a conditional use permit to be in a W-2/"Water-Related" zoning district.

NMC 14.52.030(B)(9) indicates that a Type III decision-making procedure, with review and approval by the Planning Commission, is required for interpretations of the Zoning Ordinance that involve factual, policy or legal discretion. The Zoning Ordinance allows entertainment-oriented studios as an outright permitted use in the C-2 zone; however, photography studios are also identified as a type of personal service use that is not permitted in the C-2 district. Policy discretion is required to establish which use classification is the best fit for the proposed business; therefore, Planning Commission review is required.

8. **Applicable Criteria:** The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. **Criterion #1.** *The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. All public facilities are available and presently serve the property, as noted on the terrain and utility map included with the application (Attachment "H"). The applicant will be occupying an existing tenant space.
2. Considering the above, the Planning Commission concludes that the public facilities can adequately accommodate the proposed use.

B. **Criterion #2.** *The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. Each zoning district includes "intent" language. For the W-2 district, it includes "*All conditional uses in a W-2 district shall also comply with the following standard: In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.*" (NMC 14.03.040)

2. The Bayfront has historically included a blend of tourist-oriented retail, restaurants, and entertainment venues. Ripley's Believe It or Not is located a short distance to the east. It would be reasonable for the Commission to find that this vintage themed photographic studio will maintain the historic and unique quality of the area.

3. Given the above, the Planning Commissions concludes that this vintage themed photography studio will maintain the historic and unique quality of the area.

C. Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.

1. As depicted on the photograph of the building (Attachment "F") and the applicant's site plan (Attachment "E"), the photography studio will be located within the interior of an existing tenant space where it would have little, if any, impact on nearby properties.

2. Given the above, the Planning Commission concludes that the vintage themed photography studio does not have an adverse impact greater than existing uses on nearby properties.

D. Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

1. The only exterior modifications attributed to this proposal is a 19-inch by 28-inch sign to advertise the business (Attachment "D"). This will require a separate sign permit.

2. Given the above, the Planning Commission concludes that the use will be consistent with the overall development character of the neighborhood regarding building size and height.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit is hereby approved with the imposition of the following conditions of approval:

1. Approval of this land use permit is based on the submitted written narrative and plans listed as Attachments to the staff report. No use shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the applicant/property owner to comply with these documents and the limitations of approval described herein.